

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
MCALLEN DIVISION

JERONIMO WEBER,
Plaintiff,

V.

STATE FARM LLOYDS,
Defendant.

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§
§
§

Civil Action No. _____

Jury Demanded

DEFENDANT STATE FARM LLOYDS' NOTICE OF REMOVAL

Defendant, State Farm Lloyds, (hereinafter "State Farm") files this Notice of Removal to remove from 398th Judicial District Court of Hidalgo County, Texas to this Court a suit styled *Jeronimo Weber v. State Farm Lloyds* and docketed under Cause No. C-5472-15-I.

STATEMENT OF JURISDICTIONAL BASIS FOR REMOVAL

1. This Court has original diversity jurisdiction under 28 U.S.C.A. §1332(a)(1). Thus, this Court has removal jurisdiction. 28 U.S.C.A. § 1441(a).

TIMELINESS OF NOTICE OF REMOVAL

2. This Notice is being filed within thirty days after State Farm Lloyds was served with Plaintiff's Petition seeking monetary damages "over \$200,000.000 but not more than \$1,000,000.00." Therefore, State Farm is entitled to remove the case. Plaintiff's original State court petition naming State Farm as a Defendant was filed on October 30, 2015. Defendant State Farm was served on November 18, 2015. State Farm is a diverse Defendant such that removal is proper under 28 U.S.C.A. section 1446 (b).

NATURE OF PLAINTIFF'S CASE AGAINST DEFENDANT

3. This suit involves claims made for property damage and loss of use arising from

hail/windstorms that occurred on or about March 29, 2012 and April 20, 2012, at the home of Plaintiff Jeronimo Weber. State Farm is the insurer for the Plaintiff and did not receive notice of this claim until on or about June 12, 2012. Plaintiff now sues State Farm, alleging breach of contract, violation of the Texas Insurance Code, DTPA violations, breach of the common law duty of good faith and fair dealing, breach of fiduciary duty, negligence and gross negligence. See, Plaintiff's Original Petition attached as **Exhibit "A-2"**.

DIVERSITY JURISDICTION PERMITS REMOVAL

4. Pursuant to 28 U.S.C.A. § 1332(a)(1), this Court has diversity jurisdiction.
5. State Farm issued an insurance policy to the Plaintiff who is a citizen of Texas residing in Hidalgo County as alleged in Plaintiff's Original Petition. State Farm is an unincorporated association whose underwriters are, or during the relevant time made the basis of this suit were, citizens of the State of Illinois. Therefore, State Farm is not a citizen of Texas for the purpose of federal diversity jurisdiction. *See Royal Ins. Co. of America v. Quinn-L Capital Corp.*, 3 F.3d 877, 882-883 (5th Circ. 1993), cert den., 511 U.S. 1032, 114 S. Ct. 1541, 128 L.Ed 2d 193 (1994).
6. Plaintiff's Original Petition seeks actual damages, treble damages, attorney's fees, exemplary damages, pre-judgment interest and post judgment interest.
7. The amount in controversy is in excess of the jurisdictional minimum of \$75,000.00, excluding interest and costs, because Plaintiff has pled in damages over \$200,000.00 but not more than \$1,000,000.00. 28 U.S.C.A §1332(a). See, **Exhibit "A-2"**, Plaintiff's Original Petition, at Paragraph VII.

STATE COURT PLEADINGS FILED WITH NOTICE

8. Pursuant to 28 U.S.C.A. § 1446(a) and Local Rule 81 of the United States District Court

for the Southern District of Texas, filed with this Notice of Removal as **Exhibit “A”** is Index of Documents Filed with Notice of Removal and **Exhibit “B”** is List of All Counsel of Record and Parties Represented.

9. Defendant will promptly file a copy of this Notice of Removal with the clerk of the state court where the suit has been pending.

VENUE

10. Venue is proper in this district under 28 U.S.C.A. § 1441 (a) because the state court where the suit has been pending is located in this district.

JURY DEMAND

11. Plaintiff did demand a jury in the state court suit.

WHEREFORE, PREMISES CONSIDERED, Defendant State Farm Lloyds prays that this Notice of Removal be granted, that Plaintiff's suit against Defendant proceed before this Court pursuant to this Court's diversity jurisdiction, that upon final trial, judgment be rendered that Plaintiff take nothing by his suit against Defendant, and for such other and further relief to which Defendant may be justly entitled.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the preceding Defendant's Notice of Removal has been filed electronically with the Clerk of the Court and Notice of this filing will be sent by operation of the Court's electronic filing system and by facsimile, to the following CM/ECF participants on this 17th of December, 2015.

VIA FACSIMILE: (956) 627-4363

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